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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**ORIGINAL**

In the Matter of )  
 )  
Service Rules for the 746-764 and 776-794 ) WT Docket No. 99-168  
MHz Bands, and Revisions to Part 27 of the )  
Commission's Rules. )

To: The Commission

**OPPOSITION OF APCO  
TO PETITIONS FOR RECONSIDERATION OF  
NATIONAL ASSOCIATION OF BROADCASTERS,  
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.,  
AND THE ASSOCIATION OF LOCAL TELEVISION STATIONS, INC.**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following Opposition to the Petitions filed by the National Association Of Broadcasters ("NAB"), the Association For Maximum Service Television, Inc. ("MSTV"), and the Association Of Local Television Stations, Inc. ("ALTV") seeking reconsideration of the Commission's *First Report and Order*, FCC 00-5 (released January 7, 2000), in the above-captioned proceeding.

APCO is the nation's oldest and largest public safety communications organization and frequency coordinator. Most of its over 14,000 members are involved in the management and operation of state and local government communications systems used by police, fire, emergency medical, forestry conservation, highway maintenance, disaster relief, and other public safety agencies. APCO has been a major participant in all of the Commission's proceedings concerning the allocation of spectrum and service rules for the new 700 MHz public safety band.

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The MSTV Petition urges the Commission to reconsider its decision not to allow new broadcast-type services in the 746-764/776-794 MHz band (TV channels 60, 61, 62, 65, 66, and 67). APCO opposes this aspect of MSTV's Petition insofar as it could lead to broadcast operations on portions of spectrum now occupied by channels 62, 65, or 67, as those channels are immediately adjacent to the 764-776/794-806 MHz spectrum allocated nationwide for public safety radio services (TV channels 63, 64, 68, and 69). Any broadcast operations on those adjacent channels would severely restrict the ability of public safety agencies to utilize the spectrum allocated for their use purpose pursuant to the Balanced Budget Act of 1997. The "guard bands" established in the *First Report and Order* (and recent recently reaffirmed in a *Second Report and Order*) would not be sufficient to protect public safety, as the interfering signals from a high power, high HAAT broadcast station would easily span the 1-2 MHz wide guard band and impact public safety operations over a wide geographic area.

MSTV argues that the experience of the 470-512 MHz band (TV channels 14-20) demonstrates that sharing between land mobile and broadcast services is possible. However, what MSTV overlooks is that the 470-512 MHz experience has also taught us that land mobile operations cannot co-exist in the same geographic area as adjacent channel broadcast stations. Indeed, the Commission rules provide for at least a 90 mile geographic separation between channel 14-21 television stations and adjacent "TV channel" land mobile base stations. 47 C.F.R. §90.307(d). That works in the 470-512 MHz band only because land mobile use of the band is limited to specific television channels in just eleven metropolitan areas. In contrast, public safety radio services have a nationwide allocation of 764-776/794-806 MHz (TV channels 63, 64, 68, and 69). An

adjacent channel mileage separation requirement is unacceptable in that context, as it would reduce spectrum availability for public safety anywhere within the required protection zone.

MSTV also opposes the designation of 6 MHz as “guard bands” for public safety operations, citing the historic Commission reluctance to leave spectrum fallow. However, the Commission has just reaffirmed the need for such “guard bands” to protect public safety communications.<sup>1</sup> In any event, the term “guard band” is perhaps a misnomer in this case, as the Commission has merely imposed restrictions on the services that operate in specified blocks of spectrum to protect public safety operations from interference.<sup>2</sup> The spectrum will not be left fallow, but will instead be limited to radio services with operations that are compatible with public safety communications systems, rather than the more wide ranging services permitted beyond the “guard bands” in the 30 MHz of other spectrum to be auctioned.

The NAB and, to some degree, ALTV, oppose the Commission’s decision in the *First Report and Order* to allow broadcast licensees to enter into agreements with auction winners that provide for the accelerated transition of a television station out of channels 60-69.<sup>3</sup> They fear that such a policy would somehow undermine the public interest in maintaining free over-the-air television. However, NAB and ALTV overlook the fact that the broadcasters would enter into such agreements voluntarily, without coercion from

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<sup>1</sup> *Second Report and Order in WT Docket 99-168*, FCC 00-90, released March 9, 2000.

<sup>2</sup> *Id.*

<sup>3</sup> *First Report and Order*, ¶¶142-145.

the FCC or auction winners.<sup>4</sup> Moreover, there could be substantial public interest benefits to such relocation agreements, including earlier provision of public safety communications in the 700 MHz band. This might occur, for example, if the winner of a spectrum block somewhere in the current channel 67 allotment (788-794 MHz) cannot operate until an existing television station on channel 68 (794-800 MHz) in the same geographic area relocates its operations to a lower channel. An agreement between the broadcaster and the auction winner to accelerate that transition would obviously benefit public safety in that instance, as it would release channel 68 for public safety operations. Similarly, the early transition of a television station operating on channels 62, 65, or 67 might also eliminate a potential adjacent channel problem for public safety operations.

APCO reminds the Commission that the Congressional mandate that it allocate 24 MHz for public safety in channels 60-69 was based in large part on a recommendation of the Public Safety Wireless Advisory Committee, which concluded in 1996 that public safety would need access to approximately 25 MHz of additional spectrum within five years.<sup>5</sup> Congress also required that the Commission commence licensing of public safety operations in the 700 MHz band by September 1998,<sup>6</sup> a date that has long since passed. Therefore, the evidence is clear that public safety needs additional spectrum now, and anything that the Commission can do to facilitate the early

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<sup>4</sup> NAB and MSTV also assume that such agreements would force premature conversion of analog stations to digital, prior to there being a substantial penetration of digital receivers in the market. However, such agreements could also involve a television licensee requesting Commission authority to move its analog signal to its digital allotment on an interim basis, prior to final digital conversion. APCO would strongly support such alternative transitions where the result would be earlier availability of channels 63, 64, 68, or 69 for public safety operations.

<sup>5</sup>Public Safety Wireless Advisory Committee, Final Report, Volume I, page 3 (September 1996).

<sup>6</sup> 47 U.S.C. §337(b)(1).

availability of the 700 MHz band for public safety use will be in the public interest and consistent with Congressional intent.

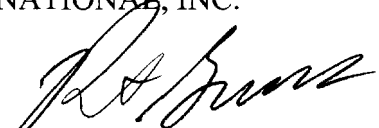
### **CONCLUSION**

For the reasons set forth above, the Commission should reject the petitions for reconsideration submitted by NAB, MSTV, and ALTV in this proceeding.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY  
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March 10, 2000

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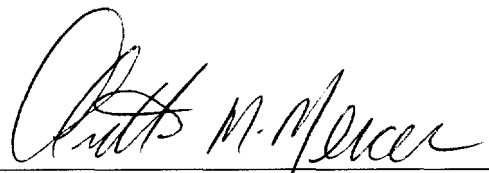
## CERTIFICATE OF SERVICE

I, Annette M. Mercer, legal secretary in the law office of Shook, Hardy & Bacon, do hereby certify that on this 10th day of March, 2000, a copy of the foregoing document was mailed, postage pre-paid, to the following:

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A handwritten signature in cursive script, reading "Annette M. Mercer", written over a horizontal line.

Annette M. Mercer